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Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Cuba* and Palestine: revised draft resolution

Establishment of the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory

The General Assembly,

Guided by the principles enshrined in the Charter of the United Nations and the rules and principles of international law, including international humanitarian law and human rights law,

Reaffirming the permanent responsibility of the United Nations towards the question of Palestine until it is resolved in all its aspects in a satisfactory manner on the basis of international legitimacy,

Recalling the relevant resolutions of the Security Council,

Recalling its relevant resolutions, including the resolutions of its tenth emergency special session on illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,[1] and recalling in particular the Court's reply to the question put forth by the General Assembly in resolution ES-10/14 of 8 December 2003, as set forth in the *dispositif* of the advisory opinion,[2]

Recalling in this regard the Court's conclusion that, inter alia, "Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem",

* On behalf of the States Members of the United Nations that are members of the Non-Aligned Movement.

[1] See A/ES-10/273 and Corr.1.

[2] Ibid., para. 163.

Reaffirming its resolution ES-10/15 of 20 July 2004 entitled "Advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, including in and around East Jerusalem",

Recalling the request made in resolution ES-10/15 for the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion,

Noting in this connection the Court's conclusion whereby, inter alia:

> Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction,[3]

Deploring the continuing construction, contrary to international law, by Israel, the occupying Power, of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, against the conclusions of the International Court of Justice in its advisory opinion of 9 July 2004 and of resolution ES-10/15 and in breach of the applicable rules and principles of international law,

Recognizing the necessity of accurately documenting the damage caused by the construction of the wall for the purpose of fulfilling the obligation to make the above-mentioned reparations, including restitution and compensation, in accordance with the rules and principles of international law, and noting that the act of registration of damage, as such, does not entail, at this stage, an evaluation or assessment of the loss or damage caused by the construction of the wall,

Taking note with appreciation of the report of the Secretary-General of 17 October 2006 pursuant to General Assembly resolution ES-10/15,[4]

1. *Reaffirms* its resolution ES-10/15 of 20 July 2004 entitled "Advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, including in and around East Jerusalem", and reiterates the demands made therein, including, inter alia, the demand that Israel, the occupying Power, comply with its legal obligations as mentioned in the advisory opinion;

2. *Takes note with appreciation* of the report of the Secretary-General pursuant to General Assembly resolution ES-10/15;[4]

3. *Establishes* the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory:

(a) To serve as a record, in documentary form, of the damage caused to all natural and legal persons concerned as a result of the construction of the wall by

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[3] Ibid., para. 153.

[4] A/ES-10/361.

Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem;

(b) To be referred to henceforth in brief as the "Register of Damage";

4. *Decides* to set up an office of the Register of Damage, which will be:

(a) Responsible for the establishment and comprehensive maintenance of the Register of Damage;

(b) Composed of a three-member Board and a small secretariat, headed by an Executive Director and consisting of substantive, administrative and technical support staff;

(c) A subsidiary organ of the General Assembly operating under the administrative authority of the Secretary-General;

(d) Established at the site of the United Nations Office at Vienna;

5. *Requests* the Secretary-General to appoint the three-member Board of the office of the Register of Damage, according to the selection criteria in the above-mentioned report, at the earliest practicable date;

6. *Decides* that the responsibilities assumed by the Board of the office of the Register of Damage shall be as follows:

(a) The Board shall have overall responsibility for the establishment and maintenance of the Register of Damage;

(b) The Board shall establish the rules and regulations governing the work of the office of the Register of Damage;

(c) The Board shall determine the eligibility criteria, bearing in mind varying circumstances with regard to the title and residency status of the claimants, for the inclusion of damages and losses caused in the Register of Damage with an established causal link to the construction of the wall;

(d) The Board shall, guided by the relevant findings of the advisory opinion, general principles of international law and principles of due process of law, also determine the criteria of damage and the procedure for the collection and registration of damage claims;

(e) The Board, on the recommendation of the Executive Director, shall have the ultimate authority in determining the inclusion of damage claims in the Register of Damage;

(f) The Board shall meet at least four times each year at the office of the Register of Damage to determine which claims should be included in the Register of Damage, based on the established objective criteria defined in the rules and regulations;

(g) The Board shall engage, periodically and as deemed necessary, the expertise of technical specialists in relevant fields, including, inter alia, agriculture, land law, topography and assessment and compensation, to assist it in establishing and maintaining the Register of Damage;

(h) The Board shall render progress reports periodically to the Secretary-General for transmission to the General Assembly, including, as appropriate,

possible further steps in connection with paragraphs 152 and 153 of the advisory opinion;

7. *Requests* the Secretary-General to appoint, at the earliest practicable date, the Executive Director of the office of the Register of Damage, who shall:

(a) Have responsibility for overseeing and administrating the work of the secretariat of the office of the Register of Damage;

(b) Be responsible for forwarding all damage claims to the Board for its approval for inclusion in the Register of Damage and serve in an advisory capacity to the Board in this regard;

8. *Decides* that the secretariat of the office of the Register of Damage shall provide substantive, technical and administrative support for the establishment and maintenance of the Register of Damage by undertaking, inter alia, the following functions:

(a) Designing the format of the damage claims;

(b) Administering a public awareness programme to inform the Palestinian public about the possibility of and the requirements for filing a damage claim for registration, including an extensive community outreach programme to explain the purpose of the Register of Damage and provide guidance on how to fill out and submit the claim forms;

(c) Receiving, processing and establishing the credibility of all damage claims for registration in the Register of Damage;

(d) Submitting all processed damage claims through the Executive Director to the Board for inclusion in the Register of Damage;

(e) Aggregating and maintaining the records of damage claims approved by the Board, including both hard copies of the claims and their electronic version, which shall be maintained at the office of the Register of Damage;

(f) Providing legal advice regarding the operations of the office of the Register of Damage and the submitted claims;

9. *Resolves* that the Register of Damage shall remain open for registration for the duration of existence of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

10. *Resolves also* that the office of the Register of Damage shall remain active for the duration of the process of registration and shall carry out the specific functions and directives ascribed to it by the Secretary-General in his report, as set out in the present resolution, and such additional functions as requested by the General Assembly upon recommendation by the Secretary-General;

11. *Calls for* the establishment and operation of the office of the Register of Damage and the establishment of the Register of Damage itself within six months of the adoption of the present resolution and the immediate undertaking thereafter of the process of registration of damage claims;

12. *Instructs* the office of the Register of Damage, immediately upon its establishment, to seek the cooperation of the concerned Governments and authorities so as to facilitate its work in connection with the collection, submission

and processing of damage claims in the Occupied Palestinian Territory, including East Jerusalem;

13. *Calls upon* the Government of Israel and the Palestinian Authority and relevant Palestinian institutions to cooperate with the office of the Register of Damage;

14. *Calls upon* the Secretary-General to instruct the United Nations agencies and offices present on the ground in the Occupied Palestinian Territory to lend their support and expertise to the office of the Register of Damage, upon its request, so as to facilitate its work;

15. *Requests* the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the necessary funds required to carry out the terms of the present resolution;

16. *Also requests* the Secretary-General to report to the General Assembly within six months on the progress made with regard to the establishment and operation of the office of the Register of Damage and the establishment of the Register of Damage;

17. *Decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume the meeting of the special session upon request from Member States.